

# **LOCAL COURT RULES**

Comes now the undersigned Judge of the Seventh Judicial Circuit of Indiana, and amends the Rules of Court to read in accordance with the attached document entitled “**Local Court Rules and Orders for the Seventh Judicial Circuit of Indiana**” (Dearborn and Ohio Counties).

And all former Rules are ordered vacated, and the attached Rules are adopted effective June 11, 2002.

**ALL OF WHICH IS ORDERED THIS 11TH DAY OF JUNE, 2002.**

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JAMES D. HUMPHREY, Judge  
Seventh Judicial Circuit

## **COURT RULE 2.10 - ESTATE AND GUARDIANSHIP RULES**

### **I. FEES AND COSTS OF ADMINISTRATION:**

- (A) Any and all Court costs shall be paid in full at the time the estate or probate matter is completed;
- (B) Any and all fees allowed personal representatives and attorneys in probate matters shall, so far as deemed proper by the Court, be allowed in conformance with the fee guideline then existing, approved and adopted by the Dearborn-Ohio Circuit Court. Any and all fees in excess of the guidelines shall be fixed only after a Petition is filed and notice to all interested persons;

### **II. ACCOUNTS:**

- (A) At the time of the filing of all accounts (including supplemental reports) in any probate matter, vouchers or receipts evidencing all credits claimed in said account **shall** be filed therewith unless the Court permits other evidence to be submitted in lieu thereof. No account shall be approved unless and until all vouchers are filed;
- (B) Whenever an estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty (30) days after the expiration of one (1) year from the date of the appointment of an administrator or executor and each succeeding year thereafter. Such accounting shall comply with the provisions of I.C. 29-1-16-4 and I.C. 29-1-16-6 and shall state facts showing why the estate cannot be closed;
- © All guardianship accountings must contain a certification of an officer of all financial institutions in which guardianship assets are held, verifying the account balance or a current statement of the account;

In all supervised estate and guardianship accountings, a notation shall be placed by each expenditure indicating the reason for the nature of the expenditure;

### **III. SANCTIONS:**

- (A) In the event that no such intermediate accounting is filed, the Court will annually issue to the attorneys for such estates, an Order to file such accounting within thirty (30) days from the date of the Order. In the event that no accounting is filed pursuant to the Order, an Order To Show Cause will be issued to the executor and the attorney to show cause why they should not be removed for failure to comply with I.C. 29-1-16.2;

### **IV. GUARDIANSHIPS:**

- (A) In all guardianship matters, except consensual guardianships seeking to

declare a disabled adult person incompetent, at a minimum, a physician's report signed by the doctor treating the alleged incompetent must be presented at the time the Petition is filed or on the hearing date.

## **V                   ENTRIES AND NOTICE OF ENTRIES:**

- (A) All Petitions and papers in probate proceedings shall be prepared as in the case of civil pleadings with sufficient copies. Upon all Petitions For Letters Of Guardianship or of Administration or Testamentary, the attorney for the personal representative shall have noted thereon, his name, address, phone number and State Bar Number, and all notices of Court action in said proceeding shall be sent to said attorney, and the same shall constitute notice to the personal representative;
- (B) Where any Petition For An Ex Parte Order is presented, there shall be presented at the same time, a prepared Order Book Entry;

## **VI                   GUARDIANSHIP OF MINOR:**

- (A) In every Petition For The Appointment Of Guardian over the person of a minor child, the following information shall be given:
  - (1) the child's present address;
  - (2) whether, to petitioner's knowledge, any other litigation is pending concerning the custody of the same child in this or any other state;
  - (3) whether, to petitioner's knowledge, any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child;

## **VII                  BONDS:**

- (A) In every supervised estate and guardianship, the personal representative, before entering duties, shall file a bond not less than the value of the personal property to be administered, plus the probable value of annual rents and profits of all property of the estate, except as hereinafter provided;
  - (1) where, under the terms of the Will, the testator expresses an intention that the bond be waived, the Court will set a bond adequate to protect creditors, tax authorities and devisees;
  - (2) when the sole devisee and the personal representative are the spouse, no bond is required;
  - (3) no bond shall be required in any supervised estate or guardianship in which a financial institution, qualified by law to serve as such, is either the personal representative or one of several co-personal representatives or guardians;

**VII UNSUPERVISED ADMINISTRATION:**

- (A) No Petition For Administration without Court supervision will be granted unless the consent requirement of I.C. 29-1-7.5-2(a)(4) is met along with all of the other requirements of I.C. 29-1-7.5-2(a);

**VIII SALE OF ASSETS:**

- (A) In all supervised estates and guardianships in which the real estate is to be sold (not distributed), a written professional appraisal setting forth the fair market value thereof must be filed with the Court at the time of filing the Petition For Sale, unless such an appraisal was filed with the Inventory;
- (B) A copy of all deeds in estates or guardianships must be filed with Reports Of Sale for the Court's records;

**IX INVENTORY:**

- (A) In all guardianship and supervised estates, an inventory must be filed with the Court within two (2) months after the appointment of the personal representative or guardian;

**COURT RULE 2.12 - FEE GUIDELINES**

**WHERE THE COURT IS TO ALLOW FEES:**

Probate Matters  
Decedent's Estate With Administration

Fees for basic administration of decedents' estates shall usually be considered reasonable if computed at the rates set forth below. Basic administration shall include the following services:

1. Attend lock box opening;
2. Probate of Will;
3. Appointment of personal representative;
4. Preparing of and filing Inventory;
5. Preparing and filing of Indiana Inheritance Tax Schedule;
6. Determining Indiana Inheritance Tax;
7. Transferring all property included in Inventory;
8. Preparing and filing Final Report;
9. Preparing Final Decree of Distribution;
10. Distribution of assets;

11. Preparing and filing Supplemental Report;
12. Obtaining discharge of personal representative;

The Basic Fee as follows may be charged on the property inventoried in the estate:

**BASIC FEE.....\$500.00**

Plus 6% of assets up to \$50,000.00  
 5% of assets \$50,000.00 to \$100,000.00  
 4% of all assets over \$100,000.00 thereafter

All other services performed by the attorney shall be deemed “**EXTRAORDINARY SERVICES**” and may be based upon the schedule set forth below or as the Court shall allow.

**EXTRAORDINARY SERVICES:**

Preparing Indiana Inheritance Tax Schedule with assets not inventoried, but included;  
 Additional charge on non-inventoried assets (includes transferring) add 1%.

Estates requiring Federal Estate Tax Return - \$1,000.00 plus 1/2% of assets on Federal Estate Tax Return; For returns requiring “**Special Use Valuation**” - \$3,000.00 plus 1/2% of assets on return.

Sale Of Real Estate: \$500.00 for each separate sale consisting of Petition To Sell, Order, Waivers of Notices, Report of Sale, Order, Deed and supporting documents including attending closing, if required.

Defending contested claims, civil procedure fees apply.

Services of personal representative shall be ½ of attorney's fee. This includes where personal representative is attorney or member of firm, plus such fee for extraordinary services as shall be allowed upon petition to the Court.

Income Tax Returns - Normally done by accountant chosen by fiduciary. If performed by attorney, would be subject to additional fees.

**DECEDENT'S ESTATE WITHOUT ADMINISTRATION**

Probate Will.....\$ 225.00  
 Attend lock box opening.....150.00  
 Transfer of automobile or join accounts  
 (per transfer).....50.00  
 Transfer of stock, bonds or similar

intangibles (per transfer).....	150.00
Collection of insurance proceeds (per claim).....	100.00
Indiana Inheritance Tax Schedule (plus 1% of assets on return.....)	250.00
Federal Estate Tax Return (plus 1/2% of assets on return.....)	1,000.00
Federal Estate Tax Returns (Special use Valuation, plus 1/2% of assets on return).....	3,000.00
Petition and Order of No Administration or Affidavit or equivalent.....	250.00
Affidavit To Transfer For Real Estate with title examination, without opinion, if necessary.....	150.00

### **GUARDIANSHIPS:**

Opening (uncontested).....	\$ 500.00
Current Report.....	350.00
Sale Of Real Estate consisting of:	
-Petition To Sell	
-Order	
-Waivers or Notices	
-Report Of Sale	
-Order	
-Deed	
-Supporting documents including attending closing if required.....	\$ 500.00
Final Report.....	400.00

### **TRUSTS:**

Opening.....	\$ 500.00
Current Report.....	350.00
Sale Of Real Estate consisting of:	
-Petition To Sell	
-Order	
-Waivers or Notices	
-Report Of Sale	
-Order	
-Deed	
-Supporting documents including attending closing if required (each separate sale).....	500.00
-Final Report.....	400.00

### **FORECLOSURE OF REAL ESTATE MORTGAGE:**

Basic Fee.....\$ 750.00  
-plus 5% of first \$30,000.00  
-plus 4% of all over \$30,000.00

### **COURT RULE 2.13 - INHERITANCE TAX ORDERS**

Schedules Of All Property (Form IH-6, Inheritance Tax Division) when filed with the Clerk's Office, shall be accompanied by Form IH-9, a Court Order determining the amount of taxes.

### **COURT RULE 2.14 - GUARDIANSHIP BIENNIAL REPORTS**

Comes now the Court and issues the following Rule on biennial reports of guardianships.

**I.** All guardianships in which property of the ward/ conservatorship is handled, the guardian or conservator shall file a biennial report in accordance with I.C. 29-3-9-6-5, -6, -6.5 which must contain the following information:

1. the beginning balance or inventory;
2. income;
3. expenses;
4. recapitulation showing the current balance;

All such biennial accounts must be signed by the guardian under the penalties of perjury or notarized.

**II.** Under the provisions of I.C. 29-3-9-6.5, a formal accounting need not be made; however, a recapitulation must be made by letter and signed by the guardian. The Court may make special Orders in cases where special circumstances require.

### **AMENDED COURT RULE 5.1 - JUVENILE DETENTION & HOUSING**

Court Rule 12.0 is hereby amended to read as follows:

1. No child (person under the age of eighteen (18) years) will be detained or incarcerated in an adult jail, municipal lock-up or adult facility, within or without the County, subject to the following exceptions:

(a) a child subject to automatic waiver by statute such as murder (I.C. 31-30-1-4); and

(b) a child who has been waived to adult Court;

2. All children who do not fit within the above described exceptions, shall be either detained or otherwise placed in detention in the Dearborn County Juvenile Center.

#### **COURT RULE 6.1 - MENTAL HEALTH COMMITMENTS**

All verbal and written emergency Mental Health Detention Orders shall be prepared and submitted by the Community Mental Health Center. In the event that an emergency mental health detention and examination are needed, the family or significant others, the referring physician, or the police officer or any other person requesting emergency detention shall first notify the Community Mental Health Center before such an Order will be issued by the Court.

#### **AMENDED COURT RULE 10.2.4.1 - PAUPER COUNSEL FEE SCHEDULE**

The reasonable fee for legal services in Court appointed Counsel cases for which fees are charged to the County, shall be determined on the basis of hours required to perform the service. Since cases vary greatly in the time and labor required, depending upon complexity of evidence, legal issues and other matters, a flat fee system is not workable and this Court should receive a bill which clearly states the service performed, the expenses incurred and the reason for the same no less frequently than quarterly.



**FEE SCHEDULE FOR CRIMINAL CASES SHALL BE AS FOLLOWS:**

1. All attorney time in Court or out of Court will be billed at Sixty (\$60.00) Dollars per hour, with supporting documentation as to time spent. Dead time will be billed where delay was not due to the Public Defender.
2. Trial work before a jury will also be billed at the rate of Sixty (\$60.00) Dollars per hour or Five Hundred (\$500.00) Dollars per day, whichever is less.
4. None of the above apply to death penalty cases.

**THE FEE SCHEDULE FOR CIVIL, JUVENILE, CHINS, TERMINATION OF PARENTAL RIGHTS, ETC., SHALL BE AS FOLLOWS:**

1. Billing for all out-of-Court work shall be at the rate of Thirty-five (\$35.00) Dollars per hour.
2. For Court appearances and hearings, the rate of compensation shall be Forty-five (\$45.00) Dollars per hour.
3. Trial work will be billed at the rate of Fifty-five (\$55.00) Dollars per hour or with a maximum of Three Hundred (\$300.00) Dollars for any full day in Court.

**TRAVEL AND REIMBURSEMENT:**

Use of an automobile for the client's business shall be compensated at the rate of twenty-eight (\$.28) cents per mile. Costs and expenses incurred on the client's behalf shall be reimbursed where said costs were reasonably necessary to representation of the client. Charges for pre-authorized experts, accountants, investigators, medical doctors and similar items will be borne by the County. Reasonable expenses for lodging and meals when traveling on client's business are also reimbursable. Application shall be made in advance before the hiring of experts, etc., and before expenses for lodging and meals in excess of Fifty (\$50.00) Dollars are incurred.

## **AMENDED COURT RULE 10.3 - ASSIGNMENT OF CRIMINAL CASES**

(Dearborn Superior Court Rule 15)

### **Local Rule Part I, Case Assignment**

Comes now the Court, sua sponte, and pursuant to Criminal Rule 2.2, 12 and 13 of the Indiana Rules of Court, now issues the following Administrative Order establishing the method of assigning felony and misdemeanor cases in the Courts of record of Dearborn County, Indiana.

1. All murder cases shall be filed in the Dearborn Circuit Court.
2. All Class D Felony cases and all Class A, B and C Misdemeanor cases shall be filed in the Dearborn Superior Court;
3. All vehicular homicides other than murder cases shall be filed in the Dearborn Superior Court.
4. All miscellaneous criminal cases may be filed in either the Dearborn Circuit Court or the Dearborn Superior Court.
5. Class A, B and C Felonies shall be randomly assigned by the Clerk as follows: 3/4 of such cases to the Dearborn Circuit Court; 1/4 of such cases to the Dearborn Superior Court.
6. The Judge presiding over a case to be filed in accordance with this Rule may request that the case be filed contrary to this Rule where there exists the appearance of conflict of interest. Before doing so, the Judge shall seek permission from the Judge of the Court in which the cases are intended to be filed.
7. This Rule does not affect the manner of assigning cases to Courts of non-record.
8. Whenever a Motion For Change Of Venue From the Judge has been granted pursuant to Criminal Rule 12(B), the presiding Judge disqualifies himself or it becomes necessary to assign another Judge in any criminal or juvenile delinquency case in the Dearborn Circuit Court except for situations arising under Trial Rule 79© of the Indiana Rules of Court, the Clerk shall reassign said cases to the following Judges in the following consecutive order:
  - A. Honorable G. Michael Witte, Dearborn Superior Court;
  - B. Honorable John D. Mitchell, Ohio/Switzerland Superior Courts;
  - C. Honorable Carl H. Taul, Ripley Circuit Court;

- D. Honorable James B. Morris, Ripley Superior Court;
- E. Honorable Steven Cox, Franklin Circuit Court;

In the event it becomes necessary to reassign a criminal or juvenile delinquency case in the Dearborn Circuit Court, the Judges shall be reassigned in consecutive order to the above named Judges. Judges previously assigned the case are ineligible for reassignment. The Honorable G. Michael Witte shall not be assigned when attorney Gary W. Sorge has entered an appearance in a criminal case as the Honorable G. Michael Witte and Gary W. Sorge are related in the third degree.

- 9. A. Whenever a Motion For Change Of Venue From The Judge has been granted pursuant to Criminal Rule 12(B), the presiding Judge disqualifies himself or it becomes necessary to assign another Judge in any criminal case in the Dearborn Superior Court, except for situations arising under Trial Rule 79© of the Indiana Rules of Court, the Clerk shall reassign said cases to the following Judges in the following order:

- 1. Honorable James D. Humphrey, Dearborn/Ohio Circuit Courts;
- 2. Honorable John D. Mitchell, Ohio/Switzerland Superior Courts;
- 3. Honorable Carol H. Taul, Ripley Circuit Court;
- 4. Honorable James B. Morris, Ripley Superior Court;
- 5. Honorable Steven Cox, Franklin Circuit Court;

- B. Whenever the Judge of the Dearborn Superior Court has a conflict of interest in any case arising from the representation of a party by attorney Gary W. Sorge, who is related to Judge G. Michael Witte by marriage, the case shall be transferred to the Dearborn Circuit Court, James D. Humphrey, Judge, for all further proceedings.

The Clerk, upon Recusal by the Dearborn Superior Court Judge, shall enter an Order transferring the case to the Dearborn Circuit Court, James D. Humphrey, Judge, with an appropriate RJO entry and notify Dearborn Circuit Court Judge, James D. Humphrey.

The Judge of the Dearborn Superior Court shall transfer any case to the Honorable James D. Humphrey in which Gary W. Sorge is involved, since the Judge of the Dearborn Superior Court and Gary W. Sorge are related in the third degree.

Dearborn Circuit Court Judge, James D. Humphrey, shall accept jurisdiction under the provisions of his Rule unless disqualified under the code of judicial conduct or excused from service by the Indiana Supreme Court. The transfer of such case shall be entered on the Chronological Case Summary of the case and will not require an Oath of Special Order accepting jurisdiction. Dearborn

Circuit Court Judge, James D. Humphrey, shall retain jurisdiction of the case for all future proceedings unless a specific statute or rule provides to the contrary or James D. Humphrey is unavailable by reason of sickness, absence or unwillingness to serve.

If further reassignment or selection of a successor Special Judge is required, then it shall be in the same manner as set forth in Dearborn County Court Rule 15 for criminal cases.

10. In the event a case is dismissed and refiled, the Judge last having jurisdiction in the dismissed case shall be the Judge in the new case.
11. Any post-conviction relief Petitions shall be filed in the Court in which the underlying conviction originated.
12. Any cases which may be joined by statute shall be treated as one case for purposes of determining which Court shall be selected. The highest charge filed shall determine selection.
13. This Rule shall be reviewable at any time by the Judges of the Dearborn Circuit Court and the Dearborn Superior Court and shall be reviewed annually by the Judges of said Courts with approval of any changes in this Rule to be made in accordance with Criminal Rule 2.2 before any changes become effective.

This Rule shall be effective as soon as approved by the Indiana Supreme Court pursuant to Criminal Rule 2.2.

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JAMES D. HUMPHREY, Judge  
Dearborn Circuit Court

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G. MICHAEL WITTE, Judge  
Dearborn Superior Court

**AMENDED COURT RULE 10.3 - ASSIGNMENT OF NON-CRIMINAL CASES**

(Superior County Court Rule 15)

**Local Rule Part II, Case Assignment**

The Clerk of the Dearborn Circuit and Superior Courts is directed to file the following types of non-criminal cases in the following manner:

1. Juvenile CHINS, Juvenile Delinquent, Juvenile Status, Juvenile Paternity, Juvenile Miscellaneous, Juvenile Termination of Parental Rights, Mental Health, Adoptions, Adoption History Petitions, Unsupervised Estates, Supervised Estates, Reciprocal Support, Guardianships, Trusts, Domestic Relations, Civil Plenary of an amount exceeding Ten Thousand (\$10,000.00) Dollars and Civil Torts shall be filed in the Dearborn Circuit Court.
2. Small Claims, Protective Orders, Civil Plenary of an amount at issue of Ten Thousand (\$10,000.00) Dollars or less, Infractions and Ordinance Violations shall be filed in the Dearborn Superior Court.
3. The Judges of the two (2) Courts shall retain the authority to assign cases between the Courts whenever the workload of each Court for convenience in handling cases makes such an assignment judicially desirable and with the consent of both Judges.

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JAMES D. HUMPHREY, Judge  
Seventh Judicial Circuit

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G. MICHAEL WITTE, Judge  
Dearborn Superior Court

## **COURT RULE 16.2 - PRO-SE PETITIONS FOR DISSOLUTION OF MARRIAGE**

The Clerk shall distribute the following Notice to pro-se parties who are filing Petitions For Dissolution Of Marriage.

**NOTICE:** We do not encourage individuals to file and prosecute their own divorces without the help of a lawyer. Attorneys spend years studying the law and Court procedures. What appears to be a simple, uncontested divorce to a layperson, may involve serious legal issues which would only be recognized by an attorney. You have the right to file an action for Dissolution Of Marriage without securing an attorney to represent you. However, by law, the Clerk's office, the Court staff and the Judge are not permitted to, and will not act as your legal advisor. The rules that apply to attorneys who file dissolutions apply equally to litigants who represent themselves. Those rules are as follows:

1. The Court staff are not lawyers. Their responsibility is to accept and process your pleading and to schedule hearings. They cannot give you legal advice, neither can the Judge or the Clerk of Courts. For legal advice, you must consult a lawyer.
2. Your Petition, Summons, Settlement Agreement and proposed Decree, must meet all requirements of Indiana law and the Local Rules of the Seventh Circuit Court of Indiana (including an address and phone number on all pleadings; no strike overs or erasures are permitted; Final Decrees must be typed).
3. The law requires a sixty (60) day waiting period before a final hearing can be set. You should bring a proposed Decree to the final hearing (both parties should sign the Decree if its terms have been agreed to, and there may be a separate Property Settlement Agreement signed by the parties). At least one (1) party shall personally appear before the Judge for the final hearing.
4. Once a proper Petition is filed, you must request a final hearing date from the scheduling secretary. Final hearing dates are not assigned until after the statutory waiting period has lapsed. Therefore, do not request a date until after that time. It is your responsibility to calculate the waiting period, not the Court.
5. Upon arriving at the Court House for your final hearing, notify the Bailiff of your presence. You will be summoned into Court when your case is called for trial.
6. At the final hearing, the Judge will place all witnesses under oath, and you

are then responsible for presenting all the statutorily required evidence to receive a dissolution of marriage. It is very important that you know all the evidence that is necessary, due to the fact that the Judge cannot assist you and act as your attorney during the trial. If you fail to present all of the necessary evidence, your dissolution will not be granted.

7. If the petitioner is incarcerated at the time of the final hearing, the Court will not assist in securing his presence in Court. If the petitioner fails to appear for the final hearing, a divorce may still be granted if the respondent presents the required evidence.
8. **FINALLY, THE COURT HAS A SPECIAL RESPONSIBILITY TO ENSURE THAT CHILDREN ARE NOT ACCIDENTALLY VICTIMIZED OR INADEQUATELY PROTECTED BY THEIR PARENTS IN A PRO-SE DISSOLUTION. ACCORDINGLY, IN SOME PRO-SE DISSOLUTION AND SOME MODIFICATIONS INVOLVING CHILDREN IN THE FAMILY, THE COURT WILL APPOINT A GUARDIAN AD LITEM (GAL) FOR THE CHILD/CHILDREN. THERE WILL BE A TWO HUNDRED (\$200.00) DOLLAR FEE, PAYABLE TO THE DIRECTOR OF THE GAL/CASA PROGRAM FOR THE SERVICES OF THIS PROGRAM. YOU MUST SCHEDULE AN APPOINTMENT WITH THE GAL DIRECTOR AT THE JUVENILE CENTER AND THEY WILL INTERVIEW THE PARTIES (AND THE CHILD/CHILDREN, IF APPROPRIATE) TO BE CERTAIN THAT PROPOSED AGREEMENTS AND DECREES:**
  - a. provide for custody that is reasonable and appropriate;
  - b. include fair visitation with the non-custodial parent;
  - c. set support that is appropriate to the child's/children's needs and the parents' income and resources; and
  - d. consider insurance, education and special needs for the child/children.

**THE GAL WILL ALSO WANT ASSURANCES THAT AGREEMENTS CONCERNING THE CHILDREN ARE NOT THE RESULT OF MISUNDERSTANDING OR COERCION.**

**NO FINAL HEARING WILL BE HELD UNTIL THE GUARDIAN AD LITEM FEES HAVE BEEN PAID, AND THE GUARDIAN AD LITEM HAS APPROVED THE SETTLEMENT AGREEMENT OR PROPOSED DECREE.**

9. The Clerk of the Circuit Court is hereby ordered to furnish to each person who files a cause of action for Dissolution Of Marriage without the benefit of Counsel, a copy of the attached Notice upon filing of the Petition.

## **AMENDED COURT RULE 16.3 - VISITATION GUIDELINES & RELATED MATTERS FOR DEARBORN-OHIO CIRCUITS**

Visitation is based upon considerations of what is most beneficial to the child(ren) and exists for the child(ren), and not for the parents.

In custody Orders, the primary care, custody and control of the minor child(ren) of the parties is granted to the custodial parent, subject to reasonable visitation by the non-custodial parent at such times and places as may be mutually agreed upon by the parties. A visitation agreement made by both parents is preferred to a Court imposed solution. If the parties do not agree, the following shall be considered the minimum visitation to which the non-custodial parent shall be entitled. In any Order where the Court uses the term "**reasonable visitation**," such term shall be interpreted in accordance with the following minimal visitation rights:

- (A) **INFANT TO CHILDREN AGE 6 MONTHS:** Two (2) hours per week at the home of the custodial parent or a grandparent;
- (B) **6 MONTHS TO 2 YEARS:** Visitation will be one (1) day per week with the non-custodial parent from 9:00 A.M. to 6:00 P.M. There will be no overnight visitation;
- (C) **2 YEARS AND OVER:** Alternating weekends from Friday evening at 6:00 P.M. to Sunday evening at 6:00 P.M. Summer visitation shall take place during the child's school vacation for four (4) weeks which shall be divided into separate two (2) week segments. The child must be returned to the home of the custodial parent two (2) weeks before school starts; Such extended visitation shall only take place upon thirty (30) days or more notice by the non-custodial parent to the custodial parent; Extended visitation shall take precedence over holidays and weekends; If the custodial parent should go on vacation during the summer, and the non-custodial parent loses a weekend visitation, then the non-custodial parent shall have an additional weekend upon the return of the custodial parent;

**TRANSPORTATION:** The non-custodial parent shall provide the transportation to and from the custodial parent's home provided the



residence of the custodial parent and the non-custodial parent are within forty-five (45) miles of each other; In the event that the residences of the non-custodial parent and the custodial parent are more than forty-five (45) miles, the non-custodial parent shall be responsible for picking the child(ren) up at the time set out, and the custodial parent shall return the child(ren);

- (D) **LONG DISTANCE VISITATION:** After age three (3) until age twelve (12), long distance visitation will be granted if the child(ren) is accompanied by a responsible adult. Parents shall share equally in the costs of travel if the custodial parent moves the child(ren) more than forty-five (45) miles from his/her former residence. Visitation shall be for a period of eight (8) weeks during a period of time which will not interfere with the child's(ren's) school activities provided weekend visitation is not feasible.
- (E) **HOLIDAYS:** The following holidays are recognized as holidays for the purpose of this Rule, and shall be shared with the non-custodial parent alternately, to-wit: Christmas Eve, Christmas Day, Thanksgiving, Easter, Memorial Day, New Years Day, Labor Day, 4th of July and the child's birthday for a child two (2) years and older, from 9:00 A.M. until 9:00 P.M. (other holidays falling on alternating weekends which will coincide with visitation rights herein set out). Holiday visitation shall take precedence over, and which shall be in addition to, weekend visitations when such holidays fall on a date other than a weekend visitation;

The fact that a holiday and a weekend visitation may fall on the same date, does not entitle the non-custodial parent to any additional visitation time.

- (F) **RELATED MATTERS:**
1. Support shall abate by fifty (50%) percent during the extended summer visits, and any extended visitation of seven (7) days or more;
  2. Neither visitation nor child support shall be withheld because of either parent's failure to comply with a Court Order;
  3. Each parent shall have the child(ren) ready for visitation and the child(ren)'s return to the custodial parent's home at the appropriate time. The custodial parent shall make arrangements to provide adequate clothing and other personal items for the visitation periods including, but not limited to, a child restraint device used for transporting said child(ren);
  4. The non-custodial parent shall give the custodial parent three (3) days prior notice if he or she does not intend to exercise visitation unless an emergency situation exists, in which case he or she will give such notice as is possible under the circumstances;
  5. Each parent shall supply the other with his/her current address and telephone number. Each parent shall allow reasonable telephone and mail privileges with the child(ren), and deliver all mail to the child(ren) sent by the other parent;
  6. The custodial parent shall provide copies of all school and medical

reports within ten (10) days of their receipt and shall immediately notify the other parent in the event of a medical emergency. The custodial parent shall inform the non-custodial parent of school functions permitting parental participation within twenty-four (24) hours after receiving notice of such function;

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This Rule is maintained as to Orders issued prior to the effective date of the Indiana Supreme Court Child Parenting Guidelines effective March 31, 2001.

#### **COURT RULE 16.4 - DISSOLUTION EDUCATION WORKSHOP**

All parties to dissolution cases with minor unemancipated children who file for Dissolution Of Marriage, shall participate in a Dissolution Education Workshop for the purpose of encouraging agreements between the parties on child related matters and aiding the parents in post-separation parenting. No final Decree Of Dissolution in such cases shall be granted, nor shall the case be set for final hearing until a Notification Of Compliance has been received that the parties have attended such workshop and paid the program fees. An Order to the parties shall be automatically issued by the Circuit Court upon the filing of a Petition For Dissolution Of Marriage where unemancipated children are involved. These Orders shall be enforceable by contempt proceedings. The Court may waive application of this Rule upon good cause shown (i.e. that the parties have already reached an acceptable agreement).

#### **COURT RULE 16.5 - MANDATORY DISCOVERY IN ACTIONS FOR DISSOLUTION OF MARRIAGE**

In all actions for dissolution of marriage filed after the date of the Order, the parties shall comply with the following:

1. Within forty-five (45) days of the filing of a Petition For Dissolution Of Marriage, the parties shall exchange copies of Federal Income Tax Returns for the previous year, most recent pay stubs and all of the most current information available regarding pensions, 401-K's and any other retirement plans.
2. Within sixty (60) days of the date of filing of the Petition, exchange

verified financial declaration forms as set forth in Exhibit “A” to this Rule.

3. Within ninety (90) days of the date of filing, conduct and verify to the Court that a settlement conference between the parties and Counsel has been conducted and report to the Court any stipulations or agreements which have arisen from the settlement conference.

Exchange of the above stated information constitutes mandatory discovery, and therefore Trial Rule 37 sanctions apply. Deadlines may be extended or shortened by the court for good cause shown. No contested marriage dissolution action will be scheduled for final hearing unless Counsel for either or both parties certify to the court that the above required disclosure has been completed by both parties. The settlement conference process of this Rule shall not apply in cases in which one or both of the parties is not represented by Counsel.

#### **COURT RULE 16.9 - SERVICE OF PLEADING AFTER DISSOLUTION**

In all matters pertaining to Dissolution Of Marriage commenced after the final Decree has been placed on the Order Book, notice of hearings thereon must be served upon the other party and upon the attorney who appeared for the other party in the dissolution proceedings. This Rule shall apply to all proceedings for contempt, modifications, proceedings supplemental and the like.

#### **AMENDED COURT RULE 16.10 - PRELIMINARY ORDERS**

1. All Petitions For Provisional Orders which involve support money shall be accompanied by a child support guideline worksheet, and the same shall be attached to the Petition, and such worksheet shall be signed by the party submitting the same.

2. All Petitions for Provisional Orders for child custody and support money shall be accompanied by a proposed Notice setting a date, within twenty-one (21) days, for a hearing on the same. The scheduling secretary of the Circuit Court shall attempt to set a date within five (5) days, if possible, from the date of the filing of the Petition and the Request For Temporary Orders. No emergency Provisional Orders shall be issued unless the proponent of the

request has complied with the provisions of Indiana Rule of Trial Procedure 65(B).

#### **COURT RULE 16.11 - SUPPORT ABATEMENT**

Child support obligations shall abate by fifty (50%) percent during extended summer visits and any extended visitation of seven (7) days or more. This Rule shall be effective as of March 31, 2001.

#### **AMENDED COURT RULE 20.29.1 - CIRCUIT COURT HOURS**

The official hours of the Circuit Court shall be 8:30 A.M. to 4:30 P.M. Monday through Friday.

#### **COURT RULE 20.29.2 - DOCKETING OF PLEADINGS**

It shall be the responsibility of all parties or their attorneys filing documents with the Clerk in matters pending before the Court, to first have those documents placed on the docket in the Judge's Office.

#### **COURT RULE 20.29.3 - GENERAL PLEADINGS**

All pleadings in an original action shall, in addition to the name, address, telephone number and firm name of the attorney filing the same, **must** contain the State Bar Identification Number of the attorney filing the pleading.

#### **AMENDED COURT RULE 20.29.4 - CONTINUANCES**

All Motions For Continuances shall be in writing and shall contain a statement that opposing Counsel has been notified by telephone, and shall also contain a complete

statement showing good cause for the continuance. The same shall be signed under the penalties of perjury by either the attorney or the client requesting the continuance. Attention is directed to T.R. 53.5.

Any Motion For Continuance filed within two (2) weeks of the trial, hearing or other Court matter, will be denied unless personal appearance is made by **both** Counsel in Court, explaining the necessity for the continuance. In **extreme** emergencies, the Court may grant exceptions to this Rule.

#### **AMENDED COURT RULE 20.29.5 - TIME FOR DOCKETING PLEADINGS**

Rule Number 20.29.5 is amended to read as follows: "Any Order presented to the Judge, the Clerk of Courts or with the staff of the Dearborn Circuit Court after 4:00 P.M. of each business day, will be considered filed on the next business day and will receive a file stamp entry for the next business day.

#### **AMENDED COURT RULE 20.29.6 - SIGNATURE STAMP**

Upon authorization of the presiding Judge, the Court Staff of the Dearborn Circuit Court are hereby authorized to use a signature stamp bearing a facsimile of the presiding Judge's signature in the following instances:

1. Notices of hearing dates (pink sheets);
2. Certifications under the Acts of Congress;
3. Orders To Appear (hearing notifications prepared by attorneys);
4. Daily Certifications;
5. Upon direct verbal authorization of the Judge.

Said stamp shall have all the force and effect of the Judge's personal signature and shall be in the form as follows:

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#### **AMENDED COURT RULE 20.29.6-A - SIGNATURE STAMP**

Upon authorization of Senior Judge Anthony C. Meyer, the staff of the Dearborn Circuit Court is hereby authorized to use a signature stamp bearing a facsimile of the Judge's signature in the following instances:

1. Notice of hearing dates (pink sheets);
2. Certifications under the Acts of Congress;
3. Orders To Appear (hearing notifications prepared by attorneys);
4. Daily certificates;
5. Upon direct verbal authorization of the Senior Judge.

Said stamp shall have all the force and effect of Senior Judge Anthony C. Meyer's personal signature and shall be in the form as follows:

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**COURT RULE 20.29.7 - PEOPLE PERMITTED AT COUNSEL TABLE**

No persons, other than attorneys admitted to the Bar of this State or pro hoc vice, shall be permitted beyond the gate dividing the public seating from the Court area (known as the “bar”) in the Court Room unless the Court finds that there are specific circumstances involved which would warrant the presence of an assistant.

This Rule shall not apply to witnesses, parties, juries, Court personnel, officers, security personnel or paralegals.

**AMENDED COURT RULE 20.29.8 - DESTRUCTION OF EVIDENCE**

Evidence which has been retained by the Court Reporter as a result of trials in matters in which the time for appeal has expired, will be retained for a period of one (1) year from the date of expiration of such time. Upon the expiration of one (1) year from the date of

expiration of appeal time, such exhibits and evidence will be confiscated and/or destroyed unless Counsel has requested a release of the same prior thereto. Such releases should be in writing and should describe the specific items of evidence requested to be released.

At any other time, the Court will give notice to Counsel of its intent to confiscate and destroy evidence no longer required to be retained, and Counsel shall have thirty (30) days in which to claim the same upon receipt of the same.

#### **COURT RULE 20.29.9 - NOTICE OF PLEADINGS**

The Court shall keep files available through the day with the names of the respective attorneys who are members of the Dearborn-Ohio County Bar Association on them. All notices such as pink sheets showing the dates of hearings and trials, Court documents such as Orders and communications will be placed in these files and shall constitute service and notice of the same to the respective attorneys. Service by one attorney upon another cannot be made by placing of the documents, pleadings or notices in the Court's file. They will not be recognized as service by the Court when done in this fashion.

#### **AMENDED COURT RULE 20.29.10 - SPECIAL JUDGES**

Comes now the Court on its own Motion and, pursuant to T.R. 79(H), and, after consultation with the Judges hereinafter named, adopts the following list for appointment of Special Judges in civil cases, to-wit:

**Honorable Ted R. Todd  
Honorable Fred H. Hoying  
Honorable John D. Mitchell  
Honorable Carl H. Taul  
Honorable G. Michael Witte  
Honorable James B. Morris**

and further orders that such Judges shall be submitted on a rotating basis, except when such Judges are known to this Court to be ineligible or disqualified as Special Judges under Section H of the aforesaid Rule. All such Judges hereinabove named, are within this Court's administrative district.

This Order shall become effective October 1, 1995.

**COURT RULE 20.29.11 - PRO HOC VICE**

All Counsel not admitted to practice law in the State of Indiana and wishing to appear pro hoc vice, shall make application for limited appearance as set forth in Indiana Admission and Discipline Rule 3.



## **CIRCUIT COURT RULE 20.29.12 - TRANSCRIPTS AND COURT REPORTING**

### **SUPERIOR COURT RULE 17 - TRANSCRIPTS AND COURT REPORTING**

In accordance with the requirements of Administrative Rule 15 of the Indiana Supreme Court, the following rule is hereby established effective January 1, 2005.

#### **SECTION I. DEFINITIONS**

1. A “Court Reporter” is a person who is specifically designated by the Court to perform the official Court reporting services for the Court including preparing a transcript of the record.
2. “Equipment” means all physical items owned by the Court or other governmental entity and used by a Court Reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording, storing and transcribing electronic data.
3. “Work space” means that portion of the Court’s facilities dedicated to each Court Reporter, including but not limited to actual space in the Court Room and any office space.
4. “Page” means the page unit of transcript which results when an recording is transcribed in the form required by Indiana Rule of Trial Procedure 74.
5. “Recording” means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
6. “Regular hours worked” means those hours which the Court is regularly scheduled to work during any given work week. Depending on the particular Court, these hours may vary from Court to Court within the county, but remain the same for each work week.
7. “Gap hours worked” mean those hours worked that are in excess of the regular hours worked, but hours not in excess of forty (40) hours per work week.
8. “Overtime hours worked” mean those hours worked in excess of forty (40) per work week.
9. “Work week” means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year. (i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday).
10. “Court” means the particular Court for which the Court Reporter performs services. Court may also mean all of the Courts in Dearborn County.
11. “County indigent transcript” means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a Court.
12. “State indigent transcript” means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

13. "Private transcript" means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

## **SECTION II. SALARIES AND FEES**

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising Court during any regular work hours, gap hours, or overtime hours. The supervising Court shall enter into a written agreement with the Court Reporter which outlines the manner in which the Court Reporter is to be compensated for gap and overtime hours. (i.e. monetary compensation or compensatory time of regular work hours).
2. **INDIGENT TRANSCRIPTS (County and State)**
  - A. Court Reporters shall not be entitled to bill another governmental entity, body or administrative office for the preparation of any indigent transcript except for claims for gap time or overtime compensation.
  - B. All indigent transcripts shall be prepared during the regular working hours of the Court. Preparation of said indigent transcripts are a regular task of the Court Reporter of the Circuit and Superior Courts. Should completion of said indigent transcripts require the Court Reporter to work beyond her normal working hours, then she shall be entitled to compensation for gap time and overtime in a manner agreed between the Court and the Court Reporter.
  - C. A fee of One (\$1.00) Dollar per page shall be charged for copies of indigent transcripts regardless of whether they are produced as a hard copy or on a disk.
3. **PRIVATE TRANSCRIPTS**

The maximum per page fee a Court Reporter may charge for the preparation of a private transcript shall be:

  - A. Four Dollars and fifty (\$4.50) Cents per page; Two Dollars and twenty-five (\$2.25) Cents per page for a copy.
    - (1) these charges shall be the same regardless of whether the transcript is produced as a hard copy or on disk.
  - B. In some instances a retainer may be requested.
  - C. A bill shall be submitted directly to the lawyer requesting the transcript, said transcript will not be released until payment in full is received.
4. **OTHER TRANSCRIPTS**
  - A. In cases where a transcript is requested by a member of the public (not for trial Court or appeal purposes), the charge will be Four Dollars and fifty (\$4.50) Cents per page; Two Dollars and twenty-five (\$2.25) Cents per page for a copy.
    - (1) These charges shall be the same regardless of whether the transcript is produced as a hard copy or on disk.
  - B. The request must be submitted in writing.
  - C. A retainer will always be requested in these instances for at least fifty (50%)

percent of the estimated charge.

5. Each Court Reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private indigent transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of the State Court Administration.

### **SECTION III. PRIVATE PRACTICE**

1. If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing of a private transcript, and the Court Reporter desires to utilize the Court's equipment, work space and supplies, and the Court agrees to the use of the Court's equipment for such purpose, the Court and the Court Reporter shall enter into a written agreement which must, at a minimum, designate the following:
  - A. The reasonable market rate for the use of equipment, work space and supplies.
  - B. The method by which records are to be kept for the use of equipment, work space and supplies.
  - C. The method by which the Court Reporter is to reimburse the Court for the use of the equipment, work space and supplies.
2. If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing a private transcript, all such private practice work shall be conducted outside of regular working hours. The Court Reporter shall not draw a paycheck from the county for working regular Court hours and bill for private practice work during those same working hours.

Said fees are subject to change upon due notice and amendment of this Court Rule.

**ADOPTED** at Dearborn County, Indiana, this \_\_\_\_\_ day of  
January, 2005.

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JAMES D. HUMPHREY, Judge  
Seventh Judicial Circuit

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G. MICHAEL WITTE, Judge  
Dearborn Superior Court

**COURT RULE 20.29.13 - FOR ASSIGNMENT  
OF CERTAIN CONFLICT CASES**

This Rule shall apply to the re-assignment of cases and the selection of a Senior Judge where there is an Order Of Disqualification Or Recusal in order to bring the case to a conclusion in the Dearborn-Ohio Circuit Court.

As to cases filed on or before December 31, 1998, whenever the Judge of the Dearborn-Ohio Circuit Court has a conflict of interest in any case which requires him to recuse himself because of prior contact with the case as a Deputy Prosecuting Attorney, Prosecuting Attorney or private practitioner, the case shall be assigned to Senior Judge, Anthony C. Meyer, for all further proceedings. The Clerk, upon recusal by the Circuit Court Judge, shall enter an Order transferring the case to Senior Judge, Anthony C. Meyer, with an appropriate RJO entry and notify Senior Judge, Anthony C. Meyer. Senior Judge, Anthony C. Meyer, shall accept jurisdiction under the provisions of this Rule unless disqualified under the Code of Judicial Ethics or excused from service by the Indiana Supreme Court. The re-assignment of such case shall be entered on the chronological case summary of the case and will not require an Oath or special Order accepting jurisdiction. Senior Judge, Anthony C. Meyer, shall retain jurisdiction of the case for all future proceedings unless a specific statute or Rule provides to the contrary or the Senior Judge is unavailable by reason of death, sickness, absence or unwillingness to serve. If further re-assignment or selection of a successor Special Judge or Senior Judge is required, then it shall be in the same manner as set forth in Dearborn Circuit Court Local Rule 10.3 for criminal cases or Court Rule 20.29.10 for civil cases as to cases filed on or before December 31, 1998.

As to cases filed on or after January 1, 1999, whenever the Judge of the Dearborn-Ohio Circuit Court has a conflict of interest in any case which requires him to recuse himself because of prior contact with the case as a Deputy Prosecuting Attorney, Prosecuting Attorney or private practitioner, the case shall be assigned to Senior Judge, Gary K. McCarty, for all further proceedings. The Clerk, upon recusal by the Circuit Court Judge, shall enter an Order transferring the case to Senior Judge, Gary K. McCarty, with an appropriate RJO entry and

notify Senior Judge, Gary K. McCarty, that Senior Judge, Gary K. McCarty, shall accept jurisdiction under the provisions of this Rule unless disqualified under the Code of Judicial Ethics or excused from service by the Indiana Supreme Court. The re-assignment of such case shall be entered on the chronological case summary of the case and will not require an Oath or special Order accepting jurisdiction. Senior Judge, Gary K. McCarty, shall retain jurisdiction of the case for all future proceedings unless a specific statute or Rule provides to the contrary or the Senior Judge is unavailable by reason of death, sickness, absence or unwillingness to serve. If further re-assignment or selection of a successor Special Judge or Senior Judge is required, then it shall be in the same manner as set forth in Dearborn Circuit Court Local Rule 10.3 for criminal cases or Court Rule 20.29.10 for civil cases.

STATE OF INDIANA ) IN THE DEARBORN CIRCUIT COURT  
COUNTY OF DEARBORN )SS  
GENERAL TERM, 2000

**PROCEDURE FOR EXECUTING JUVENILE  
TRAFFIC INFRACTIONS, TOBACCO  
VIOLATIONS AND TRAFFIC  
MISDEMEANOR FAILURES TO APPEAR  
WARRANTS**

Comes now the Court and establishes the following procedure for police agencies within Dearborn County to implement when executing a Juvenile Traffic Infraction, Tobacco Violation or Traffic Misdemeanor Failure To Appear Warrant upon a person under the age of eighteen (18) years:

1. The person shall be arrested upon the warrant.
2. The person shall be transported to the Dearborn County Law Enforcement Center for processing, and then shall be transported to the Dearborn County Juvenile Center with a copy of the warrant or Order authorizing incarceration.
3. The person shall be released from the custody of the Dearborn County Juvenile Center and into the custody of a parent or guardian upon a posting of a One Hundred (\$100.00) Dollar cash only bond. For Traffic Infraction cases only, the juvenile may also be released from the Dearborn County Juvenile Center upon payment of fines and Court costs into the Office of the Clerk of Courts. Payments of fines or cash bonds shall not be made at the

Dearborn County Juvenile Center or the Clerk of Courts of either County Court or the City Court involved. The person incarcerated shall then be released upon proof to the Dearborn County Juvenile Center that such bond has been posted or such fine paid.

4. Upon release, the Dearborn County Juvenile Center shall notify the person that he/she must appear in the Dearborn County Court at 9:00 A.M. on the next available business day of the Court.

5. If a person does not post bail, he/she shall be brought before the Dearborn County Court at 9:00 A.M. on the next available business day of the Court; or, in the case of the City Court, on the next available date of the Court.

6. All transporting of such persons shall be done by the Sheriff's Department, the City Police or State Police as the case may be and in accordance with the policies and procedures of Dearborn County Jail and Police Department.

7. Such persons, not being juvenile offenders, shall not be entitled to the general services of the Dearborn County juvenile Center which are provided for persons designated by law as juveniles.

This Order is used in conjunction with, and intended to be construed with, the Order of the Dearborn County (Superior) Court (15E01-9404-MI-014) and dated April 13, 1994.

**ALL OF WHICH IS ORDERED THIS \_\_\_\_\_ DAY OF  
FEBRUARY, 2000.**

\_\_\_\_\_  
G. MICHAEL WITTE, Judge  
Dearborn Superior Court

\_\_\_\_\_  
JAMES D. HUMPHREY, Judge  
Seventh Judicial Circuit

Copies to: Judge Witte  
Dearborn County Law Enforcement Center  
Dearborn County Juvenile Center  
Clerk

